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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,165	03/25/2004	Pekka Kuure	KOLS.101PA	6814

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Hollingsworth & Funk, LLC
Suite 125
8009 34th Avenue South
Minneapolis, MN 55425

EXAMINER	
PEREZ, JULIO R	
ART UNIT	**PAPER NUMBER**
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,165	KUURE ET AL.	
	Examiner	Art Unit	
	Julio R. Perez	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 June 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xiang et al. (US 20020122401) in view of Walker et al. (US 20060247042).

Regarding claims 1, 9, Xiang discloses a communication method in a wireless telecommunications system including a network infrastructure connected to at least one server for providing data streaming communication where a data stream is communicated from the server to a mobile terminal over a radio interface provided by the network infrastructure, the method including: receiving a communication connection request message from the network infrastructure in the mobile terminal (par. 18, lines 13-18, show the system being able to establish a communication with terminal); indicating reception of the communication connection request to a user of the mobile terminal (par. 25, teaches receiving a call waiting tone, thus a communication connection, wherein the subscriber decides whether to answer or not; hence, indicating to the user that a communication is available); receiving in the mobile terminal a first mode change command generated by the user (par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode); requesting for

suspension of the data streaming communication on the basis of the first mode change command (par. 7, lines 1-6; par. 29, 7-20, disclose the interruption of data session while an incoming call is entering); and accepting the communication connection on the basis of the first mode change command (par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode), **but is silent on** performing data streaming communication with the mobile terminal.

Walker teaches initiating a data session in a first device, which is connected to a data source (Figure 8, #'s 810, 830; par. 56).

It would have been obvious to one skilled in the art at the time of the invention to modify Xiang, such that the mobile terminal receives data streams, to provide means for maintaining a data session in progress.

Regarding claims 2, 10, the combination discloses the method of claim 1, generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream; and transmitting the transmission suspension message to the server over the radio interface provided by the network infrastructure (Xiang, pars. 26, 29).

Regarding claims 3, 11, the combination discloses of claim 1, further including: generating a communication connection acceptance message on the basis of the first mode change command; requesting for suspension of the data streaming communication on the basis of the communication connection acceptance message;

and transmitting the communication connection acceptance message to the network infrastructure (Xiang, (par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode).

Regarding claims 4, 12, the combination discloses of claim 1, further generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream; transmitting the transmission suspension message to the server over the radio interface provided by the network infrastructure; and accepting the communication connection on the basis of the transmission suspension message (Xiang, par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode).

Regarding claims 5, 13, the combination discloses of claim 1, further generating a connection suspension message on the basis of the first mode change command, the connection suspension message requesting the network infrastructure to release a radio connection providing the data streaming communication; and transmitting the connection suspension message to the network infrastructure (Xiang, par. 7, lines 1-6; par. 29, 7-20).

Regarding claims 6,14, the combination discloses of claim 1, receiving second mode change command generated by the user; releasing the communication connection on the basis of the second mode change command; and requesting for

continuation of the data streaming communication on the basis of the second mode change command (Xiang, par. 29, lines 7-20).

Regarding claims 7, 15, the combination discloses of claim 1, further receiving a communication connection release message from the network infrastructure; indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user; requesting for continuation of the data streaming communication on the basis of the third mode change command (Xiang, par. 29, lines 7-20).

Regarding claims 8, 16, the combination discloses of claim 1, further receiving a communication connection release message from the network infrastructure; requesting for continuation of the data streaming communication on the basis of the connection release message (Xiang, par. 29, lines 7-20; par. 25).

3. Claims 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xiang in view of Walker and Smith (US 20050123108).

Regarding claims 17, 25, Xiang discloses executing a computer process in a wireless telecommunications system including a network infrastructure connected to at least one server for providing services for mobile terminals by using the network infrastructure, the computer process including: receiving a communication connection request message from the network infrastructure in the mobile terminal (par. 18, lines 13-18, show the system being able to establish a communication with terminal); receiving in the mobile terminal a first mode change command generated by the user (par. 25, further shows the user being able to answer the call connection, wherein the

user by a push of a button accepts communication; thus, changing the communication to call mode); requesting for suspension of the data streaming communication on the basis of the first mode change command (par. 7, lines 1-6; par. 29, 7-20, disclose the interruption of data session while an incoming call is entering); and accepting the communication connection on the basis of the first mode change command (par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode), **but is silent on** performing a data streaming communication to the mobile terminal.

Walker teaches initiating a data session in a first device, which is connected to a data source (Figure 8, #'s 810, 830; par. 56).

It would have been obvious to one skilled in the art at the time of the invention to modify Xiang, such that the mobile terminal receives data streams, to provide means for maintaining a data session active while a phone conversation is in progress.

Xiang in view of Walker does not explicitly show wherein indicating reception of the communication connection request to a user of the mobile terminal.

Smith teaches indication of an incoming call, which reads on providing inication of reception of comunciation to the mobile terminal (Figure 3, #'s 310, 320).

It would have been obvious to one skilled in the art at the time of the invention to modify Xiang, such that indicating reception of the communication connection request to a user of the mobile terminal, to provide means of alerting the user of an incoming

communication while another type of communication is in progress, i.e., a downloading of data.

Regarding claim 18, the combination discloses claim 17, further generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream; and transmitting the transmission suspension message to the server over the radio interface provided by the network infrastructure (Xiang, pars. 26, 29).

Regarding claim 19, the combination of Xiang and Walker discloses claim 17, generating a communication connection acceptance message on the basis of the first mode change command; requesting for suspension of the data streaming communication on the basis of the communication connection acceptance message); and transmitting the communication connection acceptance message to the network infrastructure (Xiang, par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode).

Regarding claim 20, the combination discloses claim 17, further generating a connection suspension message on the basis of the first mode change command, the connection suspension message requesting the network infrastructure to release a radio connection providing the data streaming communication; and transmitting the connection suspension message to the network infrastructure (Xiang, par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode).

Regarding claim 21, the combination discloses claim 17, wherein the computer process further includes: generating a connection suspension message on the basis of the first mode change command, the connection suspension message requesting the network infrastructure to release a radio connection providing the data streaming communication; and transmitting the connection suspension message to the network infrastructure (Xiang, par. 25, further shows the user being able to answer the call connection, wherein the user by a push of a button accepts communication; thus, changing the communication to call mode).

Regarding claim 22, the combination discloses claim 17, wherein receiving second mode change command generated by the user (Xiang, col. 2, lines 35-39, col. 3,lines 1-5, col. 6, lines 15-19, teach the user displaying and accepting or ignoring the connection); releasing the communication connection on the basis of the second mode change command (Xiang, col. 2, lines 35-39, col. 3,lines 1-5); and requesting for continuation of the data streaming communication on the basis of the second mode change command (Xiang, col. 3, lines 6-8, teach restoring the portable to data communication mode).

Regarding claim 23, the combination discloses claim 17, further receiving a communication connection release message from the network infrastructure; indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user; requesting for continuation of the data streaming communication on the basis of the third mode change command (Xiang, par. 29, lines 7-20).

Regarding claim 24, the combination discloses claim 17, further receiving a communication connection release message from the network infrastructure; requesting for continuation of the data streaming communication on the basis of the connection release message (Xiang, par. 29, lines 7-20; par. 25).

Response to Arguments

4. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R. Perez whose telephone number is (571) 272-7846. The examiner can normally be reached on 10:30 - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G. Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Julio R Perez
Examiner
Art Unit 2617

9/12/07
JP

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600